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COVINGTON & BURLING

EX PARTE OR LATE FILED

1201 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004-2401  
TEL 202.662.6000  
FAX 202.662.6291  
WWW.COV.COM

WASHINGTON  
NEW YORK  
LONDON  
BRUSSELS  
SAN FRANCISCO

RUSSELL D. JESSEE  
TEL 202.662.6688  
FAX 202.778.6688  
RJESSEE@COV.COM

November 17, 2000

**BY HAND DELIVERY**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
12th Street Lobby  
Counter TW-A325  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

99-273

*Re: CC Docket No. 96-115/Telecommunications Carriers' Use of  
Customer Proprietary Network and Other Customer Information; CC  
Docket No. 96-98, Implementation of the Local Competition Provisions of  
the Telecommunications Act of 1996; CC Docket No. 99-273, Provision of  
Directory Listing Information Under the Telecommunications Act of 1934,  
As Amended*

**Notice of Ex Parte Communication**

Dear Ms. Salas:

On November 17, 2000, the undersigned, counsel for InfoNXX, met with Commissioner Harold Furchtgott-Roth and Rebecca Benyon, his legal advisor, regarding the above-captioned proceeding.

We discussed issues in the Commission's rulemaking proceeding regarding access to directory listing information by independent directory assistance providers. In addition to discussing the history of the proceeding, we discussed how LECs are obligated to provide access to directory listings under Section 251(b)(3) of the Communications Act of 1934, as amended. Furthermore, LECs are obligated to provide listings at nondiscriminatory and reasonable rates. In this case, market-based rates are illusory because there is no true market for directory listings. The Bell companies maintain bottleneck control over the most perfect compilations of directory listings available. A summary of the issues presented in the meeting is attached.

Additionally, we discussed how Telegate's proposal for 411 presubscription does not properly belong in this proceeding and is ill-timed given the way that competitive local service has developed in the last five years.

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Ms. Magalie Roman Salas  
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Pursuant to Section 1.1206(b) of the Commission's Rules, an original and one copy of this letter are being submitted to the Secretary's office, and a copy is being submitted each to the individuals listed below. Please direct any questions regarding this notice to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerard J. Waldron".

Gerard J. Waldron  
Russell D. Jessee  
COVINGTON & BURLING  
1201 Pennsylvania Avenue N.W.  
P.O. Box 7566  
Washington, D.C. 20044  
(202) 662-6000 (t)  
(202) 662-6391 (f)

*Counsel to INFONXX*

cc: Commissioner Harold Furchtgott-Roth  
Ms. Rebecca Benyon

# The Process Has Dragged On Too Long

- **February 1998** - First approached the FCC
- **September 1999** - NPRM issued
- **October 13, 1999** - Comments
- **October 28, 1999** - Reply Comments
- It's been **nearly three years** since the idea was presented and **over one year** since the pleading cycle was complete.

## **Third-Party DA Providers Are Important in a Competitive Local Market**

- InfoNXX is an independent DA provider that provides DA services branded for CLECs and wireless carriers.
- InfoNXX's service is an alternative to ILEC and self-provision of DA services.
- Without accurate listings at reasonable prices, independent providers cannot truly compete and provide this valuable alternative.

# Independent Providers Are Entitled to Access to DA Listings

- LECs must provide access to DA listings under Section 251(b)(3).
- Independent DA providers are entitled to access as
  - CLECs, because they provide **call-completion**;  
or
  - **agents of CLECs**, entitled to the same access as their CLEC principals.

# Access Under 251(b)(3)

- Access must be provided on a **nondiscriminatory** basis:
  - the same rates that LECs charge other CLECs.
- Rates must also be **reasonable** under Sections 201(a)/201(b).
- Reasonable rates are **cost-based**.

# What Are Reasonable Rates?

- States have determined reasonable rates
  - *e.g.*, New York set the price of listings for the entire state at \$83,341 for the initial load and the equivalent of \$0.0083/listing for updates; Texas found SWBT's cost-based rate to be \$.0011/initial listing.
- It is not reasonable for the Bells to dictate what they charge.
- Market-based rates cannot apply when there is no true market for DA listings.
  - The Bells maintain bottleneck control over the most perfect compilation of DA listings available.

# SBC and BellSouth's Arguments For Cost-Based Pricing Are Misconceived

- “DA listings are a competitive service according to the *UNE Remand Order*.”
- The market for OS/DA services may be competitive, but the market for listings is not.
- The ILECs maintain bottleneck control.
- Listings are a necessary input for providing competitive DA services.
- SBC/BS are trying to destroy the very competition that removed OS/DA services from the UNE list.



# Bell Arguments For Cost-Based Pricing Are Misconceived

- “LECs have no obligation to provide listings at cost-based rates under 251(b)(3).”
- **LEC pricing must be nondiscriminatory, including the same rates they charge themselves.**
- **Rates must be reasonable. Of course Section 201(b) applies.**
- **Reasonable rates are cost-based.**

# Bell Arguments For Cost-Based Pricing Are Misconceived

- “If a service is not a UNE, then the market price should prevail.”
- **OS/DA *services* were removed from the UNE list; listings are an input to those services.**
- **Cost-based pricing of listings does nothing to the Bells’ ability to price OS/DA services at market rates.**
- **Listing rates in SBC Texas 271 case were UNE cost-based rates.**
- **Interconnection agreements contain market-based prices for many services for which a true market exists, but there is no true market for Bell DA listings.**